REMARKS/ARGUMENTS

Claims 1-13 and new claims 15-16 are pending in the application.

Reconsideration is requested in view of the above amendments and the following

remarks.

The Examiner has considered the Applicant's arguments, but has maintained the

rejections.

The Applicant notes the provisional rejections as recited in the prior response.

Claims 1-13 stand rejected as being provisionally rejected on the ground of nonstatutory

obviousness-type double patenting in view of:

claims 4-17 of copending application no. 09/800,328;

claims 1-36 of copending application no. 10/655,387; and

claims 1-12 of copending application no. 09/838,979.

As previously stated, reconsideration of the rejection is respectfully requested in

view of the above amendments and the remarks presented herein. In the event the

Examiner maintains this rejection, Applicant acknowledges that it may be overcome by

submitting a terminal disclaimer.

Claims 1-13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US

Patent 5,070,528 ("Hawe") in view of US Patent 6,393,568 ("Ranger"). This rejection is

respectfully but strenuously traversed and reconsideration and a withdrawal of the

rejection is hereby respectfully requested.

Applicant's claimed invention is not taught, suggested or disclosed by the cited

references. The Examiner has indicated that the rejection relies on Ranger for a teaching

of Applicant's claim language providing that the proscribed code scanner reviews

information preexisting in the code prior to the code being intercepted. However,

Applicant points out that the rejection is based on Hawe and its disclosure, and further,

the Examiner's position that the teachings of Ranger would therefore be obvious to apply

in view of Hawe; in other words, that one of ordinary skill in the art would have

combined the teachings.

Applicant submits that what Hawe discloses is appending a cryptographic

preamble to the beginning of a code string. It is this preamble that is used. Even

assuming that the Examiner's citation of Ranger relates to a proscribed code scanner

reviewing information preexisting in the code prior to the code being intercepted and

processed by the apparatus, this is more of a reason why Applicant's present invention is

not obvious, as the alleged Ranger disclosure would not function with Hawe. Rather, that

teaching would appear to be inconsistent with what Hawe discloses, since Hawe appends

a cryptographic preamble to the beginning of a string. Even Hawe clearly states that:

> The cryptographic preamble contains an offset value pointing to the
> starting location of information that is to be processed, and completely
> defines the type of cryptographic processing to be performed.

(Abstract)

To the extent that the Examiner relies on Hawe's teachings, the only item that is disclosed

to determine what type of cryptographic processing is to be performed is the preamble

that Hawe injects into the already existing code. Applicant has amended the claims to

explicitly recite that the code being processed is the code which has been traveling on the

communications channel (as opposed to injected preamble code), and that the parsing and

scanning is done without the need for the appendage of a preamble (as in Hawe).

Applicant's amended claims now recite that the parser is a parser that parses code based

on the content of code received from the communications channel.

In addition, in order to more particularly distinguish Applicant's invention over

the cited art, Applicant has added new claims 15 and 16. New claim 15 provides that the

code that is reintroduced into the communications channel contains the code content upon

which parsing was based. Similarly, claim 16 recites that the said reintroduced code

comprises code scanned by said scanner for which said indicator is negative, and wherein

said reintroduced code contains the content upon which parsing with said protocol parser

is based. The Examiner acknowledges that:

> The teachings of Hawe et al. fail to disclose a proscribed code scanner
> that scans the decrypted code and that the scanner reintroduces to the
> communications channel all, some, or none of the intercepted code.

(2/16/07 Office Action, at page 6.)

However, the Hawe disclosure not only fails to disclose the Applicant's claimed

features, but goes even further, it proscribes against them. Hawe teaches the opposite of

what Applicant claims, in particular, that the code which Hawe uses to base its

cryptographic processing is deleted, and not reintroduced to a communications channel.

Hawe discloses appending a cryptographic preamble to the beginning of an information

packet and using a cryptographic processor to determine the need for cryptographic

processing based on the preamble previously appended, and stripping the preamble

before transmission onto the network. Applicant's claims recite that the content of the code used by the parser is the code intercepted on the channel, and which code is not stripped, but is reintroduced to the channel.

Applicant submits that one of ordinary skill in the art would not be led to combine the teachings of Hawe and Ranger, including precisely for the very reasons the Ranger reference is relied on as a basis for the rejection. While the Examiner contends that Ranger discloses the benefits of decrypting code prior to scanning for viruses, Hawe provides a cryptographic preamble which determines what cryptographic processing is to be performed. Hawe teaches that this is done by adding something to the code. Hawe's teaching is to permit the cryptographic preamble to remain only until the code is transmitted onto the network. Moreover, the Hawe cryptographic preamble contains an offset value that points to a particular location. One reading Hawe would be taught that the appended preamble is what defines the type of cryptographic processing to be performed so that the cryptographic processor can then perform the processing as specified in the preamble without regard to a specific protocol. This would not lead one to a teaching or suggestion of the Applicant's claimed invention. Applicant's invention parses code based on the content of code received from the communications channel, whereas Hawe desires to process code without regard to the specific protocol.

The Examiner's reading of Hawe, as to what type of encryption is needed is solely based on the cryptographic preamble and offset pointer, and not a protocol scanner.

Another reason why the combination of Hawe and Ranger still fails to result in the Applicant's claimed invention is that if one were to follow the teachings of Hawe (and

not Applicant's disclosure) then one would, *as Hawe instructs, remove the code that determines the type of cryptographic processing that is needed* (i.e., the Hawe cryptographic preamble) from the information packet (for which cryptographic processing is needed according to Hawe). If the Applicant's invention were to be taught, suggested or disclosed by Hawe, which it is not, then, as in Hawe, at least a portion of the code traveling on the communications channel would be removed. Even if one were to consider Ranger for the very reasons that the Examiner cites this reference (e.g., as an alleged teaching of decrypting code prior to scanning for viruses), then following the teachings of Hawe and Ranger would mean that the code looked to determine what type of cryptographic processing should take place would be removed after decryption. This would not lead one of ordinary skill in the art to arrive at the Applicant's invention.

If Hawe and Ranger were followed, then what results would be the Applicant deleting from the code, that portion of the code content upon which the parsing was based. This would not be the Applicant's claimed invention. Applicant, unlike Hawe, does not append a cryptographic preamble, but, as recited in the claims, as now amended, utilizes a protocol parser that parses code based on the content of code received from said communications channel. However, also unlike Hawe, Applicant does not remove the content of the code as a result of the code being parsed when it receives the code from the communications channel.

The application of Hawe and Ranger, as applied to the rejection of claims 7 and 8 (see page 8 of the office action), is inconsistent with what the references disclose. First, to the extent that Ranger is relied on to suggest a "content inspection mechanism" (which

the rejection considers to be a proscribed code scanner), the disclosure of Hawe requires the prepending of code as part of the processing of an information packet, and then the removal of that code after cryptographic processing. If Ranger is applied to Hawe on the basis that Ranger discloses a "content inspection mechanism", that application to one looking at Hawe would involve the Hawe cryptographic preamble appendage and its subsequent removal as part of the combination. Applicant's invention, as recited in claims 7 and 8, for the above reasons, and for these additional reasons, is not taught, suggested or disclosed by the combination of Ranger with Hawe.

Accordingly, based on what Hawe teaches, one of ordinary skill in the art would not look to combine Ranger's teaching. If, as the Examiner indicates, it would have been obvious to apply decryption prior to scanning for viruses, then Hawe still would lead one to apply a cryptographic preamble, and the method of Hawe and Ranger, even assuming they were combined, would be dependent upon the cryptographic preamble that would need to be added to the code that is being handled.

Applicant's invention is not taught, suggested or disclosed by the cited references. Applicant believes that the claim amendments, as well as the new claims, more particularly articulate the invention, and requests an interview to resolve any further issues relating to the claim language. In particular, Applicant's claims now recite that the protocol parser parses code based on the content of code received from said communications channel. In addition, new claims 15 and 16 particularly distinguish the present apparatus and method over Hawe and Ranger.

If necessary, an appropriate extension of time to respond is respectfully requested.

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The Commissioner is authorized to charge any additional fees which may be required to Patent Office Deposit Account No. 05-0208.

Respectfully submitted,
JOHN F. A. EARLEY III
FRANK J. BONINI, JR.
CHARLES L. RIDDLE
HARDING, EARLEY, FOLLMER & FRAILEY
Attorneys for Applicant

Frank J. Bonini, Jr.
Registration No. 35,452
P.O. Box 750
Valley Forge, PA 19482-0750
Telephone: (610) 935-2300

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